

**MINUTES
of the
FORTY-NINTH MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**October 27, 2014
Humanities Commons Room, Santa Fe Indian School
Santa Fe, NM**

The forty-ninth meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Mimi Stewart, chair, on October 27, 2014 at 9:15 a.m. in the Humanities Commons Room at the Santa Fe Indian School (SFIS) in Santa Fe.

Present

Rep. Mimi Stewart, Chair
Sen. John M. Sapien, Vice Chair
Paul Aguilar
Rep. Eliseo Lee Alcon
Tom Clifford, Secretary, Department of
Finance and Administration
Dr. Carl Foster
Cecilia J. Grimes
Kirk Hartom
Rep. Larry A. Larrañaga
Rep. James Roger Madalena
Rep. W. Ken Martinez
Sen. Mary Kay Papen
T.J. Parks
Mike Phipps
Sen. Cliff R. Pirtle
Sen. Benny Shendo, Jr.
Sen. John Arthur Smith
Allan Tapia

Advisory Members

Sen. Howie C. Morales
Rep. Patricia Roybal Caballero
Sen. Pat Woods

Absent

Dr. Lisa Grover
Leonard Haskie
Judy Rabon
Sen. Sander Rue
Rep. Henry Kiki Saavedra
Rep. James E. Smith

Rep. Sharon Clahchischilliage
Rep. Roberto "Bobby" J. Gonzales
Rep. Sandra D. Jeff
Sen. John C. Ryan
Sen. William E. Sharer
Sen. William P. Soules

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)

Sharon S. Ball, Senior Researcher, LCS

Kathleen Dexter, Researcher, LCS

Michelle Jaschke, Researcher, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Monday, October 27**Welcome and Introductions**

The chair welcomed members and guests and asked members to introduce themselves. Superintendent Roy Herrera, SFIS, welcomed the task force and explained that the SFIS is owned and operated by the 19 pueblos in New Mexico and serves middle and high school students. Superintendent Herrera reported that about 680 students are enrolled in the Native Language Institute at the SFIS, with approximately 100 of those in the graduating class. Nineteen tribes are represented at the school at present and work with the SFIS to certify native language teachers. The SFIS is seeking to expand its native language programs and to build a teleconferencing center to facilitate instruction of the many variations among native languages.

Approval of September 3, 2014 Meeting Minutes

On a motion duly made and seconded, the minutes of the meeting of September 3, 2014 were approved without objection.

Update on the Public School Capital Outlay Council's (PSCOC's) Recommendations for Standards-Based Public School Capital Outlay Rule Changes and Possible Legislation

Martica Casias, planning and design manager, Public School Facilities Authority (PSFA), updated the task force on options identified by the PSCOC to address the litigant district concerns previously presented to the task force regarding adequacy standards. The PSCOC determined that nine of the 17 concerns identified can be addressed within the existing adequacy standards through administrative solutions.

David Abbey, chair, PSCOC, and director, Legislative Finance Committee, and Ms. Casias addressed four of the concerns that fall outside of the adequacy standards. Mr. Abbey informed the task force that funding is currently set aside from the Public School Capital Outlay Fund (PSCOF) for construction of pre-kindergarten (pre-k) classrooms, even though pre-k facilities are not currently addressed in the adequacy standards. Funding for pre-k classrooms is awarded by the PSCOC based on need. Mr. Abbey suggested surveying district needs next year to determine whether the current \$2.5 million pre-k set-aside for facilities is sufficient.

Ms. Casias informed the task force that the adequacy standards do not address the provisions of Title IX of the United States Education Amendments of 1972 that mandate equal opportunities in athletics for female and male athletes. The PSCOC position on the issue is that it is the district's responsibility to accommodate both sexes equitably with regard to the scheduled use of site recreation and outdoor physical education areas that are included in the adequacy standards. It was noted that concession stands for athletic facilities fall outside of the standards as the standards do not address athletic facility needs. Discussion ensued regarding the inequities of using "booster clubs" as the main source of funding for athletic facilities and playing fields, as well as the need to explore options for using artificial turf for playing fields. Ms. Casias also reported that while the PSCOC may pay for utilities infrastructure on-site, costs to extend utilities off-site continue to fall to the districts.

Mr. Abbey reported that the process for prioritizing PSCOF funding awards has prevented rural, isolated school districts from applying for and receiving PSCOC awards to build teacherages, i.e., residences for teachers. He suggested establishing a pilot program for teacherages, similar to the school facilities roof repair program previously funded by the legislature from the PSCOF, to address the specific needs of districts in which schools are located on federal lands. He further proposed that the PSCOC meet with the districts in need of teacherages and the PSFA to discuss issues related to establishing such a pilot program and to explore necessary qualifications on funding for teacherages.

Robert Gorrell, director, PSFA, addressed the litigant district concern regarding local matching requirements, noting that under current statute, the PSCOC can grant a waiver of the matching requirement to any district that demonstrates "prudent use" of its available resources. Mr. Abbey reported that historically the PSCOC has worked with the districts to review local fund balances when considering the granting of a waiver. He stated that the PSCOC does recognize the need for a reserve fund balance at the local level, and he suggested that applicant districts include a detailed plan for the use of their local funds when applying for a waiver.

Speaker Martinez noted that, with the exception of the Zuni Public School District (ZPSD), all other districts have at least a 10 percent local matching requirement that can be waived to give them financial relief. He suggested that perhaps the standards-based funding formula should be revised to include funding for the ZPSD at 110 percent of the state share to compensate for the lack of a local tax base and bonding capacity in that district. Speaker Martinez also noted the inequity inherent in the system for those outliers that the system was originally designed to assist. As priorities have changed over time, those school districts that initially received assistance have gone to the back of the line and are precluded from receiving funding for such things as native language classrooms, which have only recently been added to the standards. Speaker Martinez asked that the PSCOC explore means to right the former disallowances for those districts.

Ms. Casias noted that legislation may be required to address the following litigant district concerns: construction of softball and baseball fields; payment of the Navajo business activity

tax; provision of additional funding for facilities maintenance; and revision of the state-district match formula in statute. Speaker Martinez requested that the PSFA research whether or not there is a double taxation issue with respect to the Navajo business activity tax and report back to the task force. Maintenance of school facilities continues to be the major issue in the discussions with the litigant districts. Mr. Abbey observed that working with the Gallup-McKinley County School District (GMCSO) now on the identified issues and options provides an opportunity to avoid costly litigation.

Frank Chiapetti, superintendent, GMCSO, presented information to the task force comparing the amounts available in different school districts for maintenance on a per student basis. He reported that the amounts vary from more than \$216,000 per student in the Hobbs Municipal School District to less than \$80,000 per student in the GMCSO. Elaborating on the maintenance problem, he noted that the PSCOC has directed districts to reduce their square footage in an effort to reduce maintenance costs. This new requirement has resulted in problems with fitting children into fewer classrooms while trying to meet new curriculum needs.

Similarly, Superintendent Chiapetti noted that the high cost of issuance for school bonds in impoverished districts has a disequalizing effect on the districts' ability to build and support facilities that enhance education, such as libraries, occupational training and athletic facilities and fine arts spaces. Superintendent Chiapetti related the tremendous need for teacherages on federal lands to ensure that rural schools have trained teaching staff. Districts with such needs have to spend their local funds on teacherages with no state support. Superintendent Chiapetti asked for task force support to address safety issues related to poorly developed and maintained playing fields. Further, Superintendent Chiapetti expressed concern that opportunities for negotiation on local share match waivers and related issues governed by the PSCOC are not readily available. He asked that the state provide support for building schools based on educational specifications rather than adequacy standards and that the state reexamine the issue of how federal impact aid is credited in the funding formula.

Superintendent Hayes Lewis, ZPSD, reported that his district has experienced a decrease in federal impact aid funding of 27 percent over the past five years and that, at the same time, all of the expenses for teacherages have fallen to the district. Debt service on the teacherages as a percentage of the district's receipts has risen from 14 percent to 63 percent over the same five years. Superintendent Lewis asserted that virtually all local funds are going to debt service when the funds should be in use to provide educational services to children. He observed that adequacy standards and square footage restrictions are dictating how new buildings are developed rather than educational need.

Marc Space, superintendent, Grants-Cibola County School District (GCCSD), reported that the district has decided not to support teacherages and has notified staff that housing will no longer be available after June 2015. The GCCSD anticipates that many of the teaching staff members will opt to relocate and find jobs elsewhere, presenting other challenges for the district.

Superintendent Space and other panel members discussed the dynamic changes in enrollment in their districts and the challenge of building schools to the right capacity for student numbers.

Superintendent Space also addressed the serious need for expansion of broadband services to meet the requirements of the Partnership for Assessment of Readiness for College and Careers (PAARC) testing requirements. Task force members observed that the need for more bandwidth is a problem throughout the state and that the problem will likely intensify as PARCC testing ramps up. The problem affects other areas of school performance as well as the PARCC testing needs.

Update on the Implementation of the Education Technology Infrastructure Deficiencies Correction Program

Mr. Gorrell presented an update on the implementation of the Broadband Deficiencies Correction Program. Phase 1 of the project is now in effect to collect information to establish a baseline of the condition of the various broadband networks now in service for school systems statewide. The Estancia Municipal School District has volunteered to be the pilot district for measurement and analysis of bandwidth expansion options. The pilot program will then be expanded to some 30 additional schools to hone the validation and assessment tools and create recommendations for correction of broadband deficiencies. Options may include use of an outside contractor or new dark fiber technology. Phase 2 of the program will implement deficiencies corrections. Mr. Gorrell emphasized that decisions on the corrective measures chosen must include funding for recurring costs to keep the information technology systems operational. He cautioned that deferred maintenance is not possible on infrastructure that supports a statewide real-time system.

Report on the Effects of Possible Severance Tax Distribution Changes on Standards-Based Public School Capital Outlay Funding Formula Awards

Jeff Eaton, director of business operations, PSFA, presented a report on the effects of possible severance tax distribution changes on standards-based public school capital outlay funding formula awards. Mr. Eaton observed that over the next 18 months, the PSCOC is projected to award over \$400 million in state matching funds for school construction, creating a wealth of jobs and needed facilities improvements. At the request of the PSCOOTF, the PSFA developed scenarios to gradually reduce funding for public school capital outlay and increase distributions to the Severance Tax Permanent Fund (STPF).

Task force members discussed the four scenarios presented, observing that more immediate cutbacks as presented in one scenario could affect the completion of current projects in process. In analyzing the fiscal impact of the four scenarios developed, it was noted that all of the distribution cutbacks fall to the public schools and not to other beneficiaries of the STPF distributions. Mr. Eaton further reported that due to PSCOC priorities for the use of supplemental severance tax bond (SSTB) proceeds, the only area affected by the funding changes would be the school construction program.

Public School Capital Outlay Funding Stream: Update on the State Investment Council (SIC) Legislation to Increase Distributions to the STPF and on the Issuance of SSTBs

Steven K. Moise, state investment officer, SIC, presented proposed legislation to increase distributions to the STPF by phasing in reductions to the severance tax and supplemental severance tax bonding capacity. One of the proposed bills would hold harmless the Water Trust Fund, Tribal Infrastructure Trust Fund and Colonias Infrastructure Trust Fund. Under that proposal, school and legislative capital outlay funds would be reduced by about 12 percent over a 10-year period.

Task force members discussed the need to build the corpus of the STPF. One member observed that the precipitous drop in the STPF was due to the economic collapse that began in 2008. The member inquired about investment strategies that seem to vary between the Land Grant Permanent Funds, which have rebounded to 2007 levels, and the STPF, which has not. Vincent Smith, deputy state investment officer, SIC, asserted that there is no significant difference in investment strategies between the funds and that modeling for the STPF indicates that there is only about a 30 percent chance that the real dollar amount of the fund will endure over time if more funds do not go into the corpus.

One member pointed out that given the square footage of the schools that have been built (66 million square feet as reported by Mr. Eaton) and the size of the capital investment (roughly \$2 billion over the past 12 years), it would follow that some of the public school capital outlay funding should now be used for maintenance. The member noted that there will always be a need for public school facilities improvements and raised the issue of the constitutional amendment now before the voters that would modify the investment strategy for the STPF. Another member noted the volatility of the oil and gas industry revenues that feed the STPF and suggested making direct appropriations for certain educational needs.

Members generally agreed that increasing the inflow to the corpus of the STPF is necessary to preserve the health of the fund. Discussion ensued as to how to fairly apply reductions in distributions from the STPF to all of the current beneficiaries. Some members, as well as presenters, characterized the set-asides for water, colonias and tribal projects as sacrosanct and doubted that legislation that reduces funding for those projects will be passed by the full legislature.

One member pointed out that the Colonias Infrastructure Trust Fund receives a fixed percentage of funding and that reducing funding for that fund entails a loss of the SSTB proceeds as well. A task force member suggested using some of the revenue available to the state from gaming compacts to directly fund tribal water projects. Another member volunteered to explain to his constituency the need for equitable reductions in distributions to preserve future funding and restore the health of the STPF. Mr. Moise welcomed the member's involvement in explaining the need for changes to the management of the fund.

Standardized Lease Agreements

Mr. Gorrell presented an update on the utilization of the standardized lease agreements by the PSFA. The PSCOC has directed the PSFA to encourage but not require the use of the standardized lease agreements. Designed to be user-friendly for both the PSFA and the schools, the standardized agreements have been developed for leasing land and public and private facilities and for lease-purchase agreements. The agreements can accommodate any special needs but should guide users away from illegal activities and strengthen conflict of interest disclosure requirements.

Tracking School District Maintenance Costs: Suggestions and Recommendations for Implementation

Mr. Gorrell reported on the continuing need to improve tracking of school district maintenance costs. The current reporting structure for school district maintenance expenditures is too broad to appropriately inform the planning, acquisition, maintenance and operations functions. Proposed improvements to the system will establish detailed facility-related definitions aligned with new accounting cost codes necessary to protect public investments. The improvements afford an opportunity to improve facility life cycles through appropriate and efficient maintenance expenditures. Mr. Gorrell asserted that deferring needed maintenance triples costs in the long run.

One member expressed concern that the new system will burden personnel with new reporting requirements. Mr. Gorrell explained that once established, the new system will override some of the current difficulties experienced in pursuing an ongoing effective maintenance program, including frequent staff changes and poorly defined maintenance activities. The proposed improvements will assist in answering important facility management questions relative to repair, renewal and replacement needs. Mr. Aguilar, deputy secretary of finance and operations, Public Education Department, stated that he would like to meet with Mr. Gorrell to discuss the next steps that Mr. Gorrell has outlined for the task force to achieve an effective maintenance program.

Consideration of Possible Legislation for Task Force Endorsement and Direction to Staff

Ms. Ball presented proposed legislation for task force review. Task force members briefly discussed proposed legislation to extend the deadline requiring charter schools to be housed in public facilities. Members agreed to postpone further discussion of the proposed legislative items until the upcoming meeting on November 10, 2014.

Adjournment

There being no further business before the task force, the task force adjourned at 4:30 p.m.